

EXHIBIT 16

UNITED STATES DISTRICT COURT **CERTIFIED COPY**

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable YVONNE GONZALEZ ROGERS, Judge

PATRICK CALHOUN, et al., on)	Evidentiary Hearing
behalf of themselves and all))	
others similarly situated,)	Pages 1 - 271 and
)	321 - 330
Plaintiffs,)	
)	
vs.)	NO. C 20-05146 YGR
)	
GOOGLE LLC,)	
)	
Defendant.)	Oakland, California
_____)	Monday, October 24, 2022

REPORTER'S TRANSCRIPT OF PROCEEDINGS

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1 previewed early where we have an objection to Mr. Kleber's
2 testimony. We call him in lieu -- we wanted 30(b)(6)
3 testimony from Google. Google agreed to that. That's all we
4 wanted him for.

5 Google did not submit an affirmative outline for
6 Mr. Kleber as required by the Court's order, and we object to
7 his testimony.

8 **MS. TREBICKA:** And, Your Honor --

9 **THE COURT:** Noted.

10 Next witness.

11 **MS. TREBICKA:** Michael Kleber.

12 **THE CLERK:** Mr. Kleber, please raise your right hand.

13 **MICHAEL KLEBER,**

14 called as a witness by the defendant, having been duly sworn,
15 testified as follows:

16 **THE CLERK:** Thank you. You may put your hand down,
17 be seated, and state your full name and spell your last name.

18 **THE WITNESS:** Michael Kleber, K-L-E-B-E-R.

19 **THE COURT:** All right. Good afternoon.

20 You may proceed.

21 **THE WITNESS:** Thank you.

22 **DIRECT EXAMINATION**

23 **BY MS. TREBICKA:**

24 **Q.** Thank you, Mr. Kleber. And I'll just give you a caution.

25 We've had a problem with witnesses going a little fast. So

1 we're going to take it slow. It's later in the day. We want
2 to give the court reporter an easier time taking down
3 everything that's written.

4 **A.** Absolutely.

5 **Q.** Mr. Kleber, what is your -- where are you employed?

6 **A.** At Google.

7 **Q.** What is your position at Google?

8 **A.** I am a principal software engineer working on the Privacy
9 Sandbox.

10 **Q.** And are you with a particular product within Google?

11 **A.** With the Chrome web browser.

12 **Q.** Understood.

13 You mentioned the Privacy Sandbox. What is the Privacy
14 Sandbox?

15 **A.** It's an effort started by Google a few years ago to change
16 the way the web works to make it much more private than it has
17 been in the past, without breaking things that are important
18 about the web.

19 **Q.** What do you mean without breaking things that are
20 important about the web?

21 **A.** Anytime you want to change the web, you need to do so
22 carefully and thoughtfully because there are lots of websites
23 that depend on the way the web works. The efforts to make the
24 web more private include things like removal of third-party
25 cookies which are used by many different parts of the web. So

1 just removing them risks breaking a lot of things.

2 **Q.** And you mentioned that the Privacy Sandbox is an
3 initiative started by Google. It -- has it remained within
4 Google?

5 **A.** The Privacy Sandbox was started by Google initially. But
6 it's an effort to change the entire web. And like all efforts
7 to change the way the web works, it involves collaboration
8 among many different parties.

9 So a lot of the pieces of the Privacy Sandbox now include
10 ideas that came from a number of other parties, including
11 other web browsers and including other affected companies.

12 **Q.** What do you mean when you say other affected companies?
13 Who are the other stakeholders who provide input to the
14 Privacy Sandbox?

15 **A.** So certainly the input process is open to anyone who wants
16 to participate. It generally takes place in a public forum.
17 Most notable among these forums is the W3C, or the Worldwide
18 Web Consortium.

19 Aside from browsers, other parties who are interested
20 include many folks who provide the technology that makes the
21 web work, and notably among those for the Privacy Sandbox
22 includes ad tech companies.

23 **Q.** And as part of your role with the Privacy Sandbox, do you
24 have any familiarity with how other browsers may experiment to
25 increase user privacy without breaking the web in your -- in

1 your words?

2 **A.** Yes, absolutely. The reason that we all get together in
3 the W3C is to provide a venue where all the different browser
4 vendors can talk to one another about the ideas that we are
5 proposing or experimenting with or developing, with the goal
6 of us all coming to eventually a common understanding of what
7 the good ideas are for the way the web should change.

8 **Q.** Has any one browser found a complete solution to the
9 third-party cookies that doesn't interfere with functionality?

10 **A.** No, certainly not.

11 **Q.** Does Chrome block third-party cookies?

12 **A.** Currently in Chrome, third-party cookies are blocked in
13 Incognito, or the Chrome's private browsing mode, but are not
14 blocked in regular mode.

15 **Q.** Are there any settings in Chrome that would allow users to
16 block third-party cookies?

17 **A.** Yes. Chrome, like other browsers, has a large range of
18 settings, including one that allows all cookies no matter
19 what, one that breaks all cookies no matter what, even
20 first-party cookies. The web doesn't work very well if you
21 use that setting. One that turns off third-party cookies in
22 general, yes.

23 **Q.** And all those settings are native to Chrome; is that --

24 **A.** That's right.

25 **Q.** -- right?

1 **A.** Those are all settings that are built into Chrome.

2 **Q.** Does Safari block by default all third-party cookies?

3 **A.** No, it does not.

4 **Q.** Will you explain how -- will you explain your answer?

5 **THE COURT:** Can I ask first, though?

6 **MS. TREBICKA:** Yes.

7 **THE COURT:** Incognito in private browsing mode,
8 that's only if you're -- if you have a Chrome account and
9 you're logged in?

10 **THE WITNESS:** No. Actually Incognito mode is a way
11 that you can open up a new tab inside of the Chrome web
12 browser, completely irrespective of whether you're logged in
13 or whether you have a Google account. It's a way of signaling
14 to the browser that you intend to do some browsing that you
15 hope to be more private than the standard.

16 **THE COURT:** Okay.

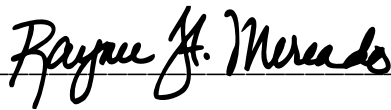
17 **THE WITNESS:** And so the browser does things like
18 erase all of the data about what happened in Incognito mode
19 when you're done with that.

20 **THE COURT:** Okay. And then what about private
21 browsing modes, do you have to be logged in for that one?

22 **THE WITNESS:** Sorry. Private browsing mode is not a
23 specific -- it's more of a general term that is used to
24 describe something like this across different browsers. So
25 there is a private browsing mode kind of thing in Firefox and

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.



Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

Friday, October 28, 2022